

February 17, 2023

VIA ECF

The Honorable Lorna G. Schofield
United States District Judge, Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

Re: *Catherine McKoy et al. v. The Trump Corporation, et al.* 18-cv-09936 (LGS) (SLC)

Dear Judge Schofield:

The parties in this matter write jointly pursuant to Rule I.B.2 of Your Honor's Individual Rules and Procedures for Civil Cases to respectfully request an order permitting modest extensions to the schedule for briefing Plaintiffs' anticipated motion for class certification, with no changes to the summary judgment or trial schedule.

On February 10, 2023, Plaintiffs filed a pre-motion letter seeking an order precluding Defendants' experts pursuant to Federal Rule of Civil Procedure 37(c), on the ground that those experts participated in private meetings with ACN Opportunity, LLC ("ACN") executives Robert Stevanovski and David Merriman (ECF 511), which Plaintiffs contend were not properly disclosed. Defendants submitted a response to Plaintiffs' letter motion, opposing preclusion of Defendants' experts and proposing that Defendants be permitted to supplement or amend their experts' reports. ECF 513 at 2.

On February 16, 2023, Judge Sarah L. Cave held a discovery conference concerning Plaintiffs' letter motion. Following the discovery conference, Judge Cave ruled in an order that:

1. Defendants shall, by February 28, 2023, serve supplemental reports or declarations by their experts regarding the substance of their discussions in January 2023 with Mr. Stevanovski and Mr. Merriman (ECF 514 ¶ 2);
2. "Given Stevanovski's participation" in meetings with Defendants' experts, and the experts' "apparent reliance on Stevanovski's statements," Plaintiffs shall be permitted to take Mr. Stevanovski's deposition for two hours on the record (*id.* ¶ 4); and
3. The parties shall promptly meet and confer to schedule the depositions of Defendants' experts (*id.* ¶ 3).

During the February 16 conference, Judge Cave asked how these measures might affect the timing of Plaintiffs' forthcoming motion for class certification, and Plaintiffs expressed a preference to modestly adjust the deadline, while making clear that Plaintiffs can proceed on the current schedule if directed, and that in all events Plaintiffs are committed to avoiding any

interference with the Court's summary judgment or trial schedule. Counsel for Defendants indicated that a partner at counsel's law firm, whom Defendants had anticipated would play a substantial role in opposing Plaintiffs' forthcoming class certification motion, recently passed away, and on that basis Defendants requested a modest extension to the class certification briefing schedule in light of this sudden loss.

Following the February 16 conference, the parties promptly conferred concerning such an adjustment to the class certification briefing schedule, while avoiding any disruption of the summary judgment or trial schedule, and now respectfully request an order making the following modifications to the schedule for briefing Plaintiffs' anticipated motion for class certification, with no changes to the summary judgment or trial schedule:

Item	Current Deadline	Proposed Deadline
Discovery - Defendants' Supplemental Reports or Declarations	February 28 (ECF 514 ¶ 2)	No Change
Class Certification - Plaintiffs' Motion	February 24 (ECF 504)	March 10
Class Certification - Defendants' Opposition	March 24 (ECF 504)	April 7 ¹
Class Certification - Plaintiffs' Reply	April 7 (ECF 504)	April 21 ²

Respectfully submitted,

¹ This date allows Defendants the same number of days for their Opposition as in the original schedule.

² This date allows Plaintiffs the same number of days for their Reply as in the original schedule.

/s/ Roberta A. Kaplan

Roberta A. Kaplan
John C. Quinn
Maximillian Feldman

KAPLAN HECKER & FINK LLP
350 Fifth Avenue, 63rd Floor
New York, New York 10118
Telephone: (212) 763-0883
Facsimile: (212) 564-0883
rkaplan@kaplanhecker.com
jquinn@kaplanhecker.com
mfeldman@kaplanhecker.com

Andrew G. Celli, Jr.
Matthew D. Brinckerhoff
O. Andrew F. Wilson
David Berman
Nick Bourland

EMERY CELLI BRINCKERHOFF ABADY WARD &
MAAZEL LLP
600 Fifth Avenue at Rockefeller Center
New York, NY 10020
Telephone: (212) 763-5000
acelli@ecbawm.com
mbrinckerhoff@ecbawm.com
awilson@ecbawm.com
dberman@ecbawm.com
nbourland@ecbawm.com

Attorneys for Plaintiffs

/s/ Peter T. Shapiro

Peter T. Shapiro

LEWIS BRISBOIS BISGAARD
& SMITH LLP
77 Water Street
Suite 2100
New York, NY 10005
peter.shapiro@lewisbrisbois.com

Clifford S. Robert
Michael Farina

ROBERT & ROBERT PLLC
526 RXR Plaza
Uniondale, New York 11556
Telephone: (516) 832-7000
crobert@robertlaw.com
mfarina@robertlaw.com

Attorneys for Defendants

Alina Habba

HABBA MADAIO & ASSOCIATES LLP
1430 U.S. Highway 206, Suite 240
Bedminster, NJ 07921
Telephone: (909) 869-1188
ahabba@habbalaw.com

*Attorneys for Defendant Donald J. Trump,
in his personal capacity*